BOROUGH OF HIGH BRIDGE
COUNTY OF HUNTERDON
STATE OF NEW JERSEY

RESOLUTION OF THE BOROUGH OF HIGH BRIDGE, HUNTERDON COUNTY, COMMITTING TO THE BOROUGH'S FOURTH ROUND AFFORDABLE HOUSING OBLIGATION

RESOLUTION: 077-2025 **ADOPTED: 01/23/2025**

WHEREAS, on March 20, 2024, Governor Philip D. Murphy signed P.L. 2024, c.2 into law an Amendment to the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) (hereinafter "Amended FHA"); and

WHEREAS, the Amended FHA abolished the Council on Affordable Housing, also known as COAH, and delegated its responsibilities to the New Jersey Department of Community Affairs (hereinafter "DCA"), the New Jersey Housing and Mortgage Finance Agency, and the Affordable Housing Dispute Resolution Program (hereinafter "DRP"), created by the same law; and

WHEREAS, the Amended FHA requires the DCA to calculate non-binding estimates of fair share obligations on or before October 20, 2024; and

WHEREAS, the DCA issued a report on October 18, 2024 ("DCA Report") wherein it reported its estimate of the obligation for all municipalities based upon its interpretation of the standards in the Amended FHA; and

WHEREAS, the DCA employed three (3) factors to allocate the Regional Need to each applicable municipality: equalized non-residential valuation, income capacity, and land capacity; and

WHEREAS, the DCA Report calculates the Round 4 (2025-2035) obligation of the Borough of High Bridge ("Borough"), as follows: a Present Need or Rehabilitation Obligation of 4 and a Prospective Need or New Construction Obligation of 33; and

WHEREAS, the Amended FHA provides that the DCA Report is non-binding, thereby inviting municipalities to demonstrate that the Amended FHA would support lower calculations of Round 4 affordable housing obligations; and

WHEREAS, the Amended FHA further provides that "[a]ll parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by COAH unless those regulations are contradicted by statute, including P.L. 2024, c.2, or binding court decisions" (N.J.S.A. 52:27D-311(m)); and

WHEREAS, COAH regulations authorize vacant land adjustments, durational adjustments, windshield surveys and other adjustments; and

WHEREAS, Borough employees and professionals have reviewed the lands identified by the DCA for the land capacity factor with respect to the MOD-IV Property Tax List data, construction permit data, land use board approvals, configuration, and accessibility to ascertain whether these identified developable lands may accommodate development, and

WHEREAS, while the Borough does not challenge the methodology to determine the Borough's Round 4 affordable housing obligations, the Borough believes that a recalculation of the Land Capacity Factor was necessary in order to account for land use data errors in the DCA's calculation

that identified fourteen (14) developable areas within the Borough when only three (3) areas are developable; and

WHEREAS, the Borough also believes that due to a scrivener's error the Borough's 2023 equalization non-residential valuation was overstated; and

WHEREAS, after excluding lands that were inaccurately determined by the DCA to be developable and adjusting the tax data, the Borough calculated its Round 4 obligation to include a Present Need or Rehabilitation Obligation of 4 and a Prospective Need or New Construction Obligation of 29. The basis for that conclusion is attached hereto as Exhibit A; and

WHEREAS, the Amended FHA provides the "municipality's determination of its fair share obligation shall have a presumption of validity, if established in accordance with sections 6 qand 7" of the Act; and

WHEREAS, the Borough's calculation of its Round 4 obligation was calculated in accordance with sections 6 and 7 of the Amended FHA and is therefore entitled to a presumption of validity; and

WHEREAS, the Borough reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

WHEREAS, the Borough also reserves the right to adjust its position in the event of any rulings in the Montvale case (MER-L-1778-24) or any other such litigation or legislative action that alters the deadlines and/or requirements of the Amended FHA; and

WHEREAS, in the event that a third party challenges the calculations provided for in this Resolution, the Borough reserves the right to take such position as it deems appropriate in response thereto, including that its Round 4 Present or Prospective Need Obligations should be lower than described herein; and

WHEREAS, in addition to the foregoing, nothing in the Amended FHA requires or can require an increase in the Borough's Round 4 Present or Prospective Need Obligations based on a successful downward challenge of any other municipality in the region since the plain language and clear intent of the Amended FHA is to establish, for example, unchallenged numbers by default on March 1, 2025; and

WHEREAS, in light of the above, the Mayor and Borough Council of the Borough of High Bridge finds that it is in the best interest of the Borough of High Bridge to declare its modifications to the obligations reported by the DCA on October 18, 2024 subject to the reservations set forth herein; and

WHEREAS, in addition to the above, the Acting Administrative Director of the Administrative Office of the Court issued Directive #14-24, dated December 13, 2024, and made the directive available later in the week that followed; and

WHEREAS, pursuant to Directive #14-24, a municipality seeking a certification of compliance with the FHA shall file an action in the form of a declaratory judgment complaint . . . . in the county in which the municipality is located . . . . "within 48 hours after adoption of the municipal resolution of fair share obligations, or by February 3, 2025, whichever is sooner"; and

WHEREAS, the Borough of High Bridge seeks a certification of compliance with the FHA through participation in the DRP and, therefore, directs its Affordable Housing Counsel to file a declaratory relief action within 48 hours of the adoption of this resolution.

NOW, THEREFORE, BE IT RESOLVED on this 23rd day of January, 2025 by the Mayor and Borough Council of the Borough of High Bridge as follows:

1. All of the above Whereas Clauses are incorporated into the operative clauses of this resolution.

2. For the reasons set forth in this resolution, the Borough of High Bridge hereby accepts the DCA methodology and commits to a modified Round 4 Present Need Obligation of 4 units and Prospective Need Obligation of 29 units based on the calculations set forth in Exhibit A, subject to all reservations of rights set forth above.

3. The Borough of High Bridge hereby directs its Affordable Housing Counsel to file a declaratory judgment complaint in Hunterdon County within 48 hours after adoption of this resolution, attaching this resolution.

4. The Borough of High Bridge authorizes its Affordable Housing Counsel to attach this resolution as an exhibit to the declaratory judgment action that is filed and to submit and/or file this resolution with the Program or any other such entity as may be determined to be appropriate.

5. The Borough of High Bridge hereby directs its Borough Clerk to post this resolution on the Borough website within 48 hours after adoption of this resolution, attaching this resolution.

6. The Borough of High Bridge shall undertake all acts necessary to adopt a housing element and fair share plan to address its present and prospective need obligations as provided for by the Amended FHA, for filing by June 30, 2025 as part of the declaratory judgment action authorized herein.

7. This resolution shall take effect immediately, according to law.

ATTEST:

Adam Young
Municipal Clerk

Michele Lee
Mayor

CERTIFICATION

I, Adam Young, Clerk of the Borough of High Bridge, County of Hunterdon, State of New Jersey, do hereby certify that the foregoing is a true copy of a resolution adopted by the Borough Council at a meeting held on January 23, 2025.

Adam Young, Clerk